

COURSE SYLLABUS

YEAR COURSE OFFERED: 2020

SEMESTER COURSE OFFERED: Fall

DEPARTMENT: PUBL

COURSE NUMBER: 6398 (section 14491)

NAME OF COURSE: Special Problems: Administrative Law and Regulations

CLASS MEETINGS: Online

CLASS WEBSITE: (on Blackboard Learn)

NAME OF INSTRUCTOR: Kenneth W. Abbott Jr., J.D.
Office: 371 PGH (I will not be on campus this fall semester)
Phone: TBA
E-Mail: kwabbott@central.uh.edu
Office Hours: Email only until at least the 2021 spring semester.

The information contained in this class syllabus is subject to change without notice. Students are expected to be aware of any additional course policies presented by the instructor during the course.

Learning Objectives:

Students will Analyze, synthesize, think critically, solve problems, and make decisions regarding federal, state, and local administrative law.

Required Reading:

- State and Federal Administrative Law (4th ed.) by Michael Asimow and Ronald M. Levin. 2014. (ISBN-13: 978-0-314-28379-5)

(This casebook is **CRITICAL** to your success in the course. You need to buy the 4th edition.)

Recommended Reading:

- The Legal Research Survival Manual with Video Modules (2nd ed.) by Berring & Levy. West Academic Publishing. 2017. (ISBN-13: 978-1-683-28465-9)

(This book is recommended. It helps students with the basics of legal research)

COURSE SYLLABUS

Final Exam:

The Final Exam will be a **CUMULATIVE EXAM** that covers the **ENTIRE SEMESTER**, which is chapters 1-11 in your casebook, the accompanying lectures, and the Blackboard discussion threads. The Final Exam will be worth 100 points, and will account for 20% of the Semester Grade. Students will type essay responses (in paragraph form) to a number of questions that come from two hypotheticals on the exam. **The answers to all the questions for the Final Exam must total a MINIMUM of 4 full typed pages, and be no more than a MAXIMUM of 8 full typed pages.** Students will be expected to cite various key court decisions, laws, legal tests, etc. that were learned throughout the semester to back up their conclusions. The ultimate conclusions that are reached by the student are not nearly as important as the arguments that they make and the sources they cite.

For the Final Exam, students may use the casebook, their notes, and the Blackboard discussion threads for this class. **Students are NOT permitted to use websites, other books, other classmates, or any other human being to aid them in preparing their answers for the Final Exam.** Students **MUST** type their answers using Word (in 12-point, Times New Roman font) and **upload it in the assignment link in Blackboard** by the due-date listed on the syllabus.

Success on the Final Exam is **HIGHLY DEPENDENT** upon a student keeping up with the assigned readings, and being prepared for, and engaged in, discussion threads throughout the entire semester. **THERE IS NO MAKE-UP FINAL EXAM!** Failing to complete the Final Exam by the due-date will result in a grade of **ZERO** for the exam!

Discussion Thread Initial Posts:

The Initial Discussion Thread Posts will be worth a total of 100 points, and will account for 40% of the Semester Grade. **Each student will make 4 Initial Posts** (each Initial Post will be worth 50 points). **Each Initial Post must be a MINIMUM of 5 full paragraphs long, but you are encouraged to write more if you think it is necessary.** Each Initial Post has its own unique due-date (pay attention to the exact due-dates listed later in the syllabus).

There will be four separate discussion thread forums in Blackboard, one for each Initial Post and the accompanying replies. **Early in the semester, students will be assigned cases to make their 1st and 2nd Initial Posts over.** **Later in the semester, students will be assigned cases to make their 3rd and 4th Initial Posts over.** The assigned cases will be listed in a separate Word document in Blackboard.

When briefing a case, it is useful to look up summaries of cases online or in legal hornbooks (there are many good websites... Oyez is one of them) so that you can better understand the opinion you are reading in the casebook. However, it is important to remember that the casebook rarely has the entire opinion of any case, so the casebook might have an excerpt of an opinion that focuses on one particular Constitutional issue, whereas the case as a whole might have also been about another Constitutional issue or issues. Thus, **your brief needs to focus on the excerpt that the casebook gives you, and your case brief needs to be IN YOUR OWN WORDS.**

When briefing a case, you **MUST** cover all of the following 5 things:

- 1) **Give the CRITICAL FACTS of the case.** This means that you only give a brief summary of the **key facts** that play into the ultimate outcome of the case. This might also include a discussion of any federal, state, or local laws that are at issue in the case. There is no need to trace what the lower courts decided (unless a lower court decision is a critical fact that impacts the outcome of the case).
- 2) **Identify the key ISSUE or ISSUES in the case.** **The issue should be in question form** and

COURSE SYLLABUS

should typically be 1 or 2 sentences long. Keep in mind that most cases typically involve a number of legal issues, but the issue or issues you are identifying is based on the particular excerpt of the court opinion that the casebook is using.

- 3) **Examine the MAJORITY OPINION and any CONCURRING or DISSENTING OPINIONS.** This means that you identify the holding of the court and discuss the logic behind the majority's opinion. Here you would dive into the various arguments that the majority is making, and identify any tests that the majority might establish for dealing with the legal issue. In essence, it is critical to flesh out the **REASONING** of the court. If your casebook includes concurring or dissenting opinions for the case, you must discuss them as well. Discussing the majority's opinion and any other opinions should be the largest part of your brief, and this is what the majority of your points are based on.
- 4) **Give the CONCISE RULE OF LAW for the case.** This should be 1 or 2 sentences long. The concise rule or law is the general principle of law that the case creates or redefines.
- 5) **Give your take on the Court's opinion(s) and discuss how this case ties to other significant cases that deal with similar issues.**

The following is a basic guide for the number of points you could earn for each Initial Post:

45-50 points (approx. 90-100%...excellent post)

40-44 points (approx. 80-89%...good post)

35-39 points (approx. 70-79%...average post)

30-34 points (approx. 60-69%...below average post)

0-29 points (approx. 0-59%...poor post -or- no post)

Discussion Thread Replies:

The Discussion Thread Replies will be worth a total of 100 points, and they will account for 20% of the Semester Grade. **Each student will make 20 discussion thread replies (each reply will be worth 5 points).** **Each discussion thread reply must be a MINIMUM of 1 full paragraph long, but you are encouraged to write more if you think it is necessary.** There will be 4 batches of 5 replies each that have their own unique due-dates (pay attention to the exact due-dates listed later in the syllabus).

Students will post replies to Initial Posts made by other students. Students may NOT reply to their own Initial Post. Students may reply to other replies for another student's Initial Post if they choose, but ideally, the replies should be primarily about the Initial Posts.

Replying to Initial Posts helps to keep students involved in the course, and the replies also help students flesh out what the cases are really about. The more you discuss the cases with your classmates, the better you will understand them. Since this course is not face-to-face, the discussion thread Initial Posts and replies help to fulfill the Socratic Method element of this course that would normally be accomplished by class discussion participation grades in a face-to-face class. Although posting 20 replies may appear tedious to you, it is actually for your benefit to help you better understand the content.

Replies to Initial Posts must be CONSTRUCTIVE and not abrasive or mean. The replies need to be one of the following types:

COURSE SYLLABUS

- 1) You can point out something that was wrong with an Initial Post made by another student, or with a reply made by another student.
- 2) You can identify a critical detail or argument that was missing from an Initial Post made by another student, or by a reply made by another student.
- 3) You can include your own take on how the case (that another student briefed) ties into other key cases that deal with the same issue(s).
- 4) You can include your own take on whether or not you agree with Majority Opinion, Concurring Opinion(s), or Dissenting Opinion(s) in the case.

Term Paper:

The Term Paper is worth 100 points and will be worth 20% of the Semester Grade. It must be typed in a Word document (double-spaced, 12-point font, Times New Roman) and uploaded into the assignment link in Blackboard by the due-date. The Term Paper should be proofread and spell-checked before it is submitted.

Late papers will be penalized 10 points for every day that they are late (this includes the weekend).

The Term Paper is a **MINIMUM of 5 FULL pages, and a MAXIMUM of 12 FULL pages.** 10 points per page will be deducted for any Term Papers that fail to reach the minimum page-length. I stop reading Term Papers after the 12th page, so if you exceed the maximum page-length, the extra pages will **NOT** get read by me. The Term Paper should also include a **Cover Page**, that includes your full name, student ID number, the course name, semester, and title of the paper. **A MINIMUM of 5 sources must be incorporated into the paper.** **A Works Cited page must be included at the ended of the Term Paper.** Students may use any format that they prefer to write the paper and cite their sources (e.g. APA, MLA, Chicago-style, etc.). The casebook can be used as one of the sources. All of the sources should be **CREDIBLE** sources. Footnotes may be used, but are not required. Direct quotes are permissible, but must be kept to a minimum. The Cover Page and Works Cited page do **NOT** count towards the page-length.

The Term Paper is over the Chevron Doctrine. This topic is covered in Chapter 9 of the casebook, in the case of Chevron U.S.A. Inc. v. Natural Resources Defense Council (1984). There are also a number of notes and questions in that chapter that discuss the Chevron Doctrine. Obviously, this case is covered in chapter 9, so you need to read ahead and read this case earlier in the semester in order to give yourself time to understand the content, do your research, and write the Term Paper. There is a folder in Blackboard with resources that can help you with your research. **The Term Paper MUST address ALL of the following topics:**

- (1) Brief the case of Chevron U.S.A. Inc. v. Natural Resources Defense Council (1984). For this brief you only need to discuss (a) the critical facts; (b) the issue(s); and (c) the opinion of the Court. A concerted effort needs to be made to fully flesh out the **REASONING** behind the Court's Opinion. Also, you need to accurately identify what the Chevron Doctrine is.
- (2) Discuss any other significant cases that modify the Chevron Doctrine.
- (3) How does the Chevron Doctrine impact agencies and how does it impact the courts? Elaborate.
- (4) Does the Chevron Doctrine apply only at the federal level, or does it also apply to the state and local level? Elaborate. If applicable/possible, give examples of how it is used here in Texas or in nearby counties or cities.
- (5) What are our opinions of the Chevron Doctrine? Should it be abandoned? Modified? Does it change your views on how powerful or weak agencies are? Elaborate.

COURSE SYLLABUS

Grade Determination:

(Subject to change by the professor if necessary.)

<i>Assignment</i>	<i>Details</i>	<i>Total Possible Points</i>	<i>Percent of Semester Grade</i>
Discussion Thread Initial Posts (minimum of 5 paragraphs per post)	Based on a student's ability to brief cases from the casebook in an intelligent way that highlights the key facts, issue(s), majority holding, holding of any concurring or dissenting opinions, the concise rule of law, and the student's opinions of the case.	200 points <i>(4 posts worth 50 points each)</i>	40%
Discussion Thread Replies (minimum of 1 paragraph per reply)	Based on a student's ability to thoughtfully reply to other students' Initial Posts/replies, and, in a constructive way, highlight errors, bring up missing details, or share their own opinions about the Court's opinion(s).	100 points <i>(20 posts worth 5 points each)</i>	20%
Term Paper	5-12 pages long. Over the Chevron Doctrine. Make sure to address ALL of the topics/questions. (See page 4 of the syllabus for more detail.)	100 points	20%
Final Exam	CUMULATIVE Over chapters 1-11 in your casebook, as well as the accompanying Lecture Notes and discussion threads.	100 points	20%
Total:	The sum of the grades for all of the assignments.	500 points	100%

Letter Grade Assignment:

(SUBJECT TO CHANGE BY THE PROFESSOR IF NECESSARY. **THE PROFESSOR DOES NOT "BUMP-UP" SEMESTER GRADES.**)

**NOTE THAT AN "A" STARTS AT 470 POINTS (94%) BECAUSE THE GRADE OF "A+" IS NOT POSSIBLE AT THIS UNIVERSITY*

Semester Letter Grade	Total Semester Points	Final Semester Average
A	*470 and above	*94-100+
A-	450-469.99	90-93.999
B+	435-449.99	87-89.999
B	415-434.99	83-86.999
B-	400-414.99	80-82.999
C+	385-399.99	77-79.999
C	365-384.99	73-76.999
C-	350-364.99	70-72.999
D+	335-349.99	67-69.999
D	315-334.99	63-66.999
D-	300-314.99	60-62.999
F	299.99 and below	Below 60

COURSE SYLLABUS

Attendance:

This is an online class, so there is **no “attendance”** that I will be taking. You will **NOT** be required to log on each week, on a certain day of the week, at a certain time. This class is asynchronous. **However, each student should be logging on to Blackboard at least a couple of times per week** to make sure they are completing assignments on time (such as discussion thread posts) and to ensure that they read any new announcements or Lecture Notes that I might post throughout the semester.

Academic Honesty:

The department adheres to the University Policy on Academic Honesty. Please review this policy at: <http://www.uh.edu/academics/catalog/general/acade2.html#honesty>
The standard sanction for a violation of Academic Policy is a failure in the course and a notation on the academic record.

YOU ARE NOT ALLOWED TO USE OTHER CLASSMATES, OTHER PEOPLE, OR WEBSITES DURING THE FINAL EXAM...DOING SO COUNTS AS CHEATING AND WILL RESULT IN AT MINIMUM A ZERO ON YOUR EXAM, POSSIBLY AN F IN THIS COURSE, AND POSSIBLY EXPULSION FROM THIS UNIVERSITY!

If you copy my exam questions and **post them online** for future students, you are guilty of **CHEATING**. If I see my exam questions posted online, I will have somebody in IT trace the digital footprint of the individual that posted the questions, so that I can present that evidence to the university to get said student **EXPELLED**.

Plagiarism is **NOT** tolerated and counts as cheating. Therefore, make sure that any work you submit is **YOUR** own work!

Grade Expectations:

Some students assume they should get an A for doing the bare minimum. They are incorrect. This is an upper-level college course, and a course that many students take because they are considering applying for law school. As such, **if you want to earn an A, you need to do exceptional work that goes beyond the bare minimal requirements of the assignments.** Doing the bare minimum makes your work average, and will result in a grade of C. Good work is deserving of a B, and excellent work is deserving of an A.

Contacting the Professor:

If you need to contact me, please email me and include your full name, student ID number, and the course (PUBL 6398 – Administrative Law) in the email. Allow me 24 hours to respond to your email. Emails sent on the weekend may not get a reply until late Sunday night. You should get in a habit of using your official UH email account when contacting any faculty or staff at UH, since private email accounts are sometimes not compatible with the email accounts of faculty and staff.

Dropping This Course:

The instructor is NOT responsible for dropping a student from this course. Each student must take the appropriate actions and drop this course themselves according to the policies set out by the university. However, each student that plans to drop this class must also inform the instructor of their decision to do so. **It is the student’s responsibility to be aware of the deadlines for dropping a course.**

COURSE SYLLABUS

Students with Disabilities:

The College of Liberal Arts and Social Sciences, in accordance with 504/ADA guidelines, is committed to providing reasonable academic accommodations to students who request them. Students seeking accommodation must register with the Center for Students with Disabilities (CSD) 713-743-5400 and present approved documentation to me as soon as possible.

Counseling and Psychological Services:

Counseling and Psychological Services (CAPS) --www.uh.edu/caps-- are available for students having difficulties managing stress, adjusting to college, or feeling sad and hopeless. You can reach CAPS by calling 713-743-5454 during and after business hours for routine appointments or if you or somebody you know is in crisis. The "Let's Talk" program provides a drop-in consultation service at convenient locations and hours around campus. http://www.uh.edu/caps/outreach/lets_talk.html

Student Conduct Policy:

CLASS students are expected to abide by the University of Houston's Code of Student Conduct: http://www.uh.edu/dos/programs_and_services/behavior_and_conduct.html

Grade Expectations:

Some students assume they should get an A for doing the bare minimum. They are incorrect. This is a graduate-level college course. As such, **if you want to earn an A, you need to do exceptional work that goes beyond the bare minimal requirements of the assignments.** Doing the bare minimum makes your work average, and will result in a grade of C. Good work is deserving of a B, and excellent work is deserving of an A.

About How Challenging this Course Is:

TO BE VERY CLEAR, IF YOU HAVE NEVER TAKEN A LAW-TYPE COURSE BEFORE, IT WILL APPEAR DIFFICULT AT FIRST, BUT OVER TIME YOU WILL GET BETTER AT IT. Also, this is **NOT** a law school course, so I am **NOT** holding you to the standards of a student in law school, but I do expect you to read all of the assigned readings and to submit quality work. This course is a lot of effort, but don't panic. Please don't get scared and stop reading or stop submitting assignments. If you put in the work, you should do fine.

Excused Absence Policy:

Regular class attendance, participation, and engagement in coursework are important contributors to student success. Absences may be excused as provided in the University of Houston Undergraduate Excused Absence Policy and Graduate Excused Absence Policy for reasons including: medical illness of student or close relative, death of a close family member, legal or government proceeding that a student is obligated to attend, recognized professional and educational activities where the student is presenting, and University-sponsored activity or athletic competition. Additional policies address absences related to military service, religious holidays, pregnancy and related conditions, and disability.

COURSE SYLLABUS

Recording of Class:

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Center for Students with DisABILITIES. If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Syllabus Changes:

Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible through Blackboard announcements.

Resources for Online Learning:

The University of Houston is committed to student success, and provides information to optimize the online learning experience through our Power-On website. Please visit this website for a comprehensive set of resources, tools, and tips including: obtaining access to the internet, AccessUH, and Blackboard; requesting a laptop through the Laptop Loaner Program; using your smartphone as a webcam; and downloading Microsoft Office 365 at no cost. For questions or assistance contact UHOnline@uh.edu.

UH Email:

Email communications related to this course will be sent to your Exchange email account which each University of Houston student receives. The Exchange mail server can be accessed via Outlook, which provides a single location for organizing and managing day-to-day information, from email and calendars to contacts and task lists. Exchange email accounts can be accessed by logging into Office 365 with your Cougarnet credentials or through Access UH. They can also be configured on IOS and Android mobile devices. Additional assistance can be found at the Get Help page.

Helpful Information:

COVID-19 Updates: <https://uh.edu/covid-19/>

Coogs Care: <https://www.uh.edu/dsaes/coogscare/>

Laptop Checkout Requests: <https://www.uh.edu/infotech/about/planning/off-campus/index.php#do-you-need-a-laptop>

Health FAQs: <https://uh.edu/covid-19/faq/health-wellness-prevention-faqs/>

COURSE SYLLABUS

Student Health Center: <https://uh.edu/class/english/lcc/current-students/student-health-center/index.php>

List of discussion/lecture topics (Subject to change by the instructor if necessary):

Note 1* The dates listed for reading certain pages in the casebook are a suggested pace, but the discussion thread Initial Posts and replies, along with the Term Paper and the Final Exam **MUST be completed by the due-dates listed in the syllabus.*

**Note 2* At random points in the semester, I will post a few PowerPoints with audio of me lecturing. The lectures will typically highlight a key case or legal concept/issue. They are not meant to be an exhaustive discussion of the selected topic. Instead, they are meant to help the class have a basic understanding of the topic. You should still read everything in the casebook on the topic to further your understanding.*

**Note 3* All assignments are due by 7 PM (Houston time) on the listed date that they are due.*

Week Of	Activities and Assignments	Objectives and Details
MONDAY 8/24 THROUGH FRIDAY 8/28	Introduction to course	<ul style="list-style-type: none"> • Read the syllabus. • Listen/watch Welcome PowerPoint. • Read all posted announcements in Blackboard. • Listen/watch lecture over legal terms. <i>(This lecture is not something you are tested on, but listening to it will help you understand some key terms you are likely to encounter while reading the casebook).</i>
MONDAY 8/31 THROUGH FRIDAY 9/04	Chapter 1 (pages 1-14) And Chapter 2 (pages 15-72) Cases for 1st and 2nd Initial Post will be assigned to students.	Introduction The Constitutional Right to a Hearing A document will be posted in Blackboard that lists each student's name and what case they have been assigned.

COURSE SYLLABUS

Week Of	Activities and Assignments	Objectives and Details
MONDAY 9/07 THROUGH FRIDAY 9/11	<p>Labor Day Holiday</p> <p>Chapter 3 (pages 73-158)</p>	<p>No classes on Monday (9/07)</p> <p>Administrative Adjudication: Fundamental Problems</p>
<p>MONDAY 9/14 THROUGH FRIDAY 9/18</p>	<p>1st Initial Post due by 7 PM (Houston Time) on Monday, 9/14.</p> <p>5 Replies to 1st Initial Post Forum due by 7 PM (Houston Time) on Thursday, 9/17.</p> <p>Chapter 4 (pages 159-228)</p>	<p>The Process of Administrative Adjudication</p>
MONDAY 9/21 THROUGH FRIDAY 9/25	<p>Chapter 5 Up to section 5.5 (pages 229-287)</p>	<p>Rulemaking Procedures</p>
MONDAY 9/28 THROUGH FRIDAY 10/02	<p>Chapter 5 Starting at section 5.5 (pages 288-362)</p> <p>Cases for 3rd and 4th Initial Post will be assigned to students.</p>	<p>Rulemaking Procedures</p> <p>A document will be posted in Blackboard that lists each student's name and what case they have been assigned.</p>

COURSE SYLLABUS

Week Of	Activities and Assignments	Objectives and Details
MONDAY 10/05 THROUGH FRIDAY 10/09	2nd Initial Post due by 7 PM (Houston Time) on Monday, 10/05. 5 Replies to 2nd Initial Post Forum due by 7 PM (Houston Time) on Thursday, 10/08. Chapter 6 (pages 363-428)	Policymaking Alternatives
MONDAY 10/12 THROUGH FRIDAY 10/16	Chapter 7 Up to Section 7.5 (pages 429-496)	Control of Agencies by the Political Branches of Government
MONDAY 10/19 THROUGH FRIDAY 10/23	Chapter 7 Starting at Section 7.5 (pages 496-552) And Chapter 8 (pages 553-580)	Control of Agencies by the Political Branches of Government Freedom of Information and Other Open Government Laws

COURSE SYLLABUS

Week Of	Activities and Assignments	Objectives and Details
MONDAY 10/26 THROUGH FRIDAY 10/30	<p>3rd Initial Post due by 7 PM (Houston Time) on Monday, 10/26.</p> <p>5 Replies to 3rd Initial Post Forum due by 7 PM (Houston Time) on Thursday, 10/29.</p> <p>Chapter 9 (pages 581—690)</p>	Scope of Judicial Review
MONDAY 11/02 THROUGH FRIDAY 11/06	Chapter 10 (pages 691-736)	Reviewability of Agency Decisions <p>The last day to drop and receive a “W” is Tuesday 11/03.</p>
MONDAY 11/09 THROUGH FRIDAY 11/13	Chapter 11 (pages 737-802)	Standing to Seek Judicial Review and the Timing of Judicial Review
<p>MONDAY 11/16 THROUGH FRIDAY 11/20</p>	<p>4th Initial Post due by 7 PM (Houston Time) on Monday, 11/16.</p> <p>5 Replies to 4th Initial Post Forum due by 7 PM (Houston Time) on Thursday, 11/19.</p> <p>Finish working on Term Paper</p>	

COURSE SYLLABUS

Week Of	Activities and Assignments	Objectives and Details
MONDAY 11/23 THROUGH FRIDAY 11/27	Term Paper due by 7 PM (Houston time) on Monday, 11/23. Study for Final Exam Thanksgiving Holiday	Upload the Term Paper as an attachment in the assignment link in Blackboard. No classes Wednesday (11/25) through Saturday (11/28)
MONDAY 11/30 THROUGH FRIDAY 12/04	Final Exam posted on Blackboard starting at 7 AM on Monday, 11/30	You are NOT allowed to discuss the Final Exam with your classmates.
MONDAY 12/07 THROUGH FRIDAY 12/11	Final Exam due by 7 PM (Houston time) on Thursday, 12/10.	The Final Exam must be upload as an attachment to the assignment link in Blackboard no later than 7 PM (Houston time) on 12/10. Your answers must be in a Word document.